

Illinois EPA
BUREAU OF WATER
Enforcement Response Guide
~~December 31~~February, 2013

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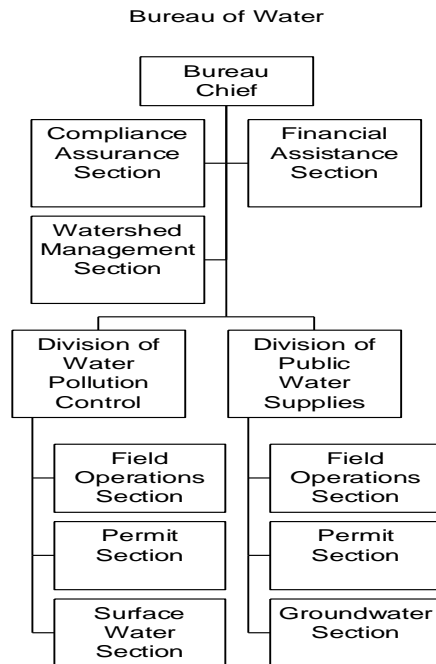
BUREAU ORGANIZATION

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The Bureau of Water (BOW) has three sections reporting to the Bureau Chief – Compliance Assurance Section, Financial Assistance Section and the Watershed Management Section. The BOW also has two divisions: Division of Water Pollution Control, including the Field Operations Section (FOS), the Permit Section and the Surface Water Section; and, the Division of Public Water Supplies, including the Field Operations Section, the Permit Section and the Groundwater Section.

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The BOW also has a legal support group within DLC. This group is organized functionally for the different legal needs. In addition to the designated enforcement attorneys, there are attorneys doing regulatory and legislative development, permit appeals and legal research projects.



Compliance Monitoring and Evaluation

Field Operations staff (FOS) identifies violations through inspections. Inspections are performed as a part of a program to routinely monitor compliance as well as part of the follow-up actions for complaints being received.

The Safe Drinking Water Information System (SDWIS) identifies several types of SDWA related violations. SDWIS violations result from reported sample data (Maximum Contaminant Level [MCL] violations) as well as from the non-reporting of required data.

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The federal Integrated Compliance Information System (ICIS) identifies several types of NPDES related violations. ICIS violations result from reported DMR data (NPDES limit exceedances), non-reporting or required DMR data, unachieved or achieved late compliance schedule events including events identified in NPDES permits, CCAs, and Orders. In addition, Single event violations (SEVs) are violations of the CWA's NPDES requirements that are documented during a compliance inspection, reported by the facility, or determined through other compliance monitoring methods by the NPDES authority. Examples of single event violations include failure to obtain required permit, sampling wastewater in an unauthorized location, or an unauthorized wastewater bypass or discharge. Single event violations do not include violations generated automatically (e.g., effluent limit violation from a DMR, or compliance schedule violations) by ICIS. Therefore, SEVs reporting for major and non-major facilities is accomplished through manual entry into ICIS. Please refer to the ICIS-NPDES SEV data entry guide for the protocols used to reported SEVs in ICIS.-

Once violations have been identified, decisions are made whether or not to take compliance/enforcement follow-up actions and the type of actions to be taken following the "Enforcement Response Guidance" provided in its section below. Willful misconduct by certified operators might also result in certificate sanctions as described below in the Operator Certificate Sanction Section. Tables are also provided as guidance for BOW staff members regarding the appropriate range of enforcement responses for different types and degrees of violations.

Informal Warning Letters

Either FOS or CAS issues NCAs for violation types as identified in the BOW enforcement response guidance. When consistency with the BOW enforcement response guidance is supported by an inspection report or by information obtained from an electronic data management system, no additional documentation is necessary. However, an enforcement response that deviates from the BOW enforcement response guidance must be approved by at least a Section Manager level of authority and documentation supporting the decision must be readily available. FOS/CAS staffs also submit recommendations for VNs to the Compliance Group (CG) for discussion. This group, comprised of the CAS Section Manager, Drinking Water and Wastewater FOS Managers, Drinking Water Permit Section Manager, and Drinking and Wastewater Compliance Monitoring Unit Managers, meets on a weekly basis to determine what action should be taken regarding violations, which can include an NCA or VN. If an NCA

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is chosen as the proper tool, it is drafted and issued by CAS or FOS as appropriate. If a facility that was sent an NCA fails to come into compliance, a VN is recommended to the Compliance Group.

Section 31 Pre-Enforcement Procedures

Once the Compliance Group (CG) determines that a VN should be sent, CAS staff prepares the VNs for the CAS Manager (or designee) to issue. CAS issues all VNs in the Bureau of Water. Responses to the VNs are sent to CAS for consideration of a Compliance Commitment Agreement (CCA). The CAS Manager is authorized to decide the acceptance or rejections of proposed CCAs following proper consultation with appropriate staff from FOS, Permits Section, DLC and other Sections in BOW. Acceptance is limited to those CCAs with appropriate commitments that will normally be completed in less than one year.

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When a facility that was sent a VN fails to submit an acceptable CCA within the response time outlined in Section 31(a) of the Environmental Protection Act (Act) or fails to achieve compliance in accordance with a CCA, the matter is sent to the Enforcement Decision Group (EDG) for a decision to pursue or not pursue additional enforcement in accordance with Section 31(b) of the Act. EDG is made up of the Bureau of Water Chief, Division Manager, Section Managers and the Compliance Section Unit Manager. Additional enforcement action usually consists of a decision to send a Notice of Intent to Pursue Legal Action (NIPLA), which is prepared by the Division of Legal Counsel.

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Restricted Status and Critical Review

Public Water Supply Program

The Act prohibits issuance of a construction permit that will cause or extend a violation. A construction permit to expand the distribution system cannot be granted when a water supply has a MCL violation, an inadequate source of raw water supply, inadequate treatment plant capacity, finished water storage capacity or inadequate distribution system pressure. A Restricted Status List generated and updated by the DPWS Permit Section is published quarterly in the Illinois Pollution Control Board Environmental Register to notify those persons considering expansion of a water supply distribution system of that status before large sums of money have been spent on items such as land acquisition, financing and engineering fees. The companion Critical Review List is also published quarterly and lists water supplies that are approaching a point where the supply could be placed on restricted status. A permit application from a water supply on critical review will be examined carefully to ensure that the proposed construction will not cause a violation.

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Water Pollution Control Program

Part of the Water Pollution Control Division's Permit Section responsibilities is the imposition of critical review. This identifies a sewer system or wastewater treatment plant as being close to overloaded either organically or hydraulically. The imposition of restricted status is the Division's determination of organic or hydraulic overload and its inability to issue further construction permits that are required for a single building having a discharge of 1,500 or more gallons per day of domestic sewage or two or more buildings connected to the same sewer.

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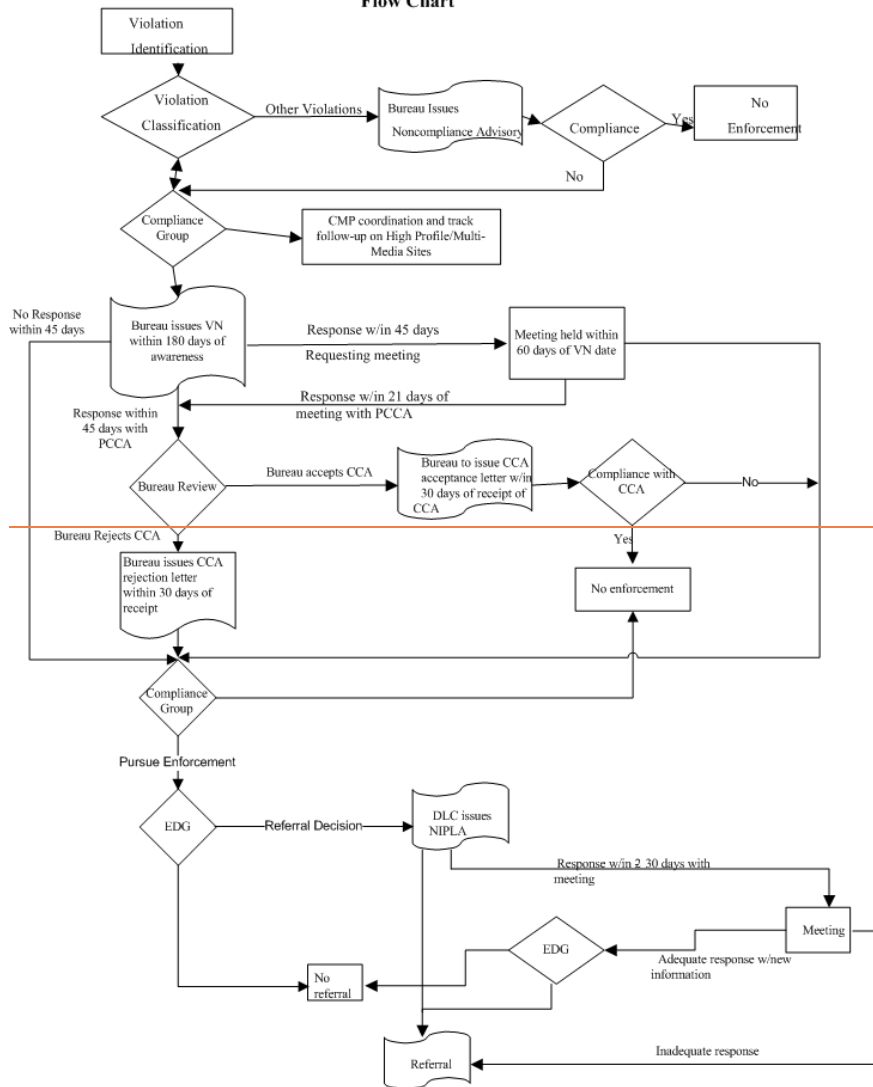
Operator Certificate Sanctions

The Agency has the authority to sanction certified drinking water and wastewater operators by suspending or revoking Certificates of Technical Competency for the following causes:

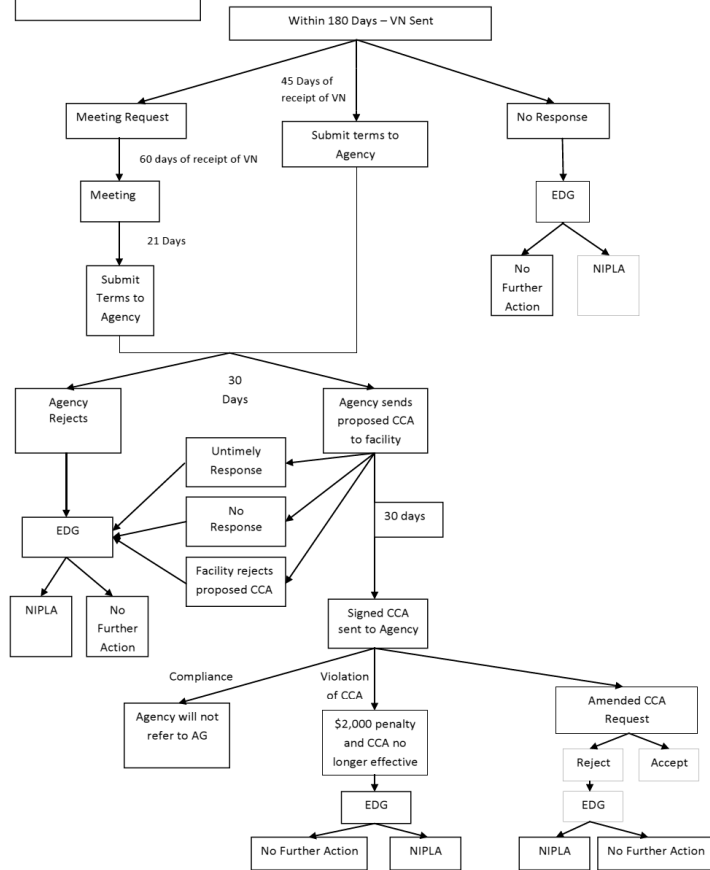
1. Having obtained, renewed or restored, or attempted to obtain, renew or restore a Certificate of Competency by fraud or deceit;
2. Any gross negligence, misconduct, or incompetence in the operation of a public water supply or a wastewater treatment works;
3. Falsification of reports required to be submitted to the Agency;
4. Willful violation of the Environmental Protection Act or any rules thereunder; or
5. A final judgment in a civil action or a conviction in a criminal action that the operator has performed any of the acts above.

The period of time that a certificate may be suspended is a year and a half and certificate revocation may be up to four years. In addition, an operator with a revoked certificate must retake and pass a certification examination in order to re-certify.

BOW Section 31(d) Summary Flow Chart



"NEW" Section 31



Field Code Changed

***Public Water Supply Program
Significant Non-compliance (SNC) Definitions***

SNCs are community water supplies that have more serious, frequent or persistent violations. The criteria designating a SNC vary by contaminant.

Sections 14.2, 14.3 and 14.5 of the Act and 35 Ill. Adm. Code 615, 616, 617, 620 and 670

- Any unauthorized bypass, discharge or pass-through of pollutants, which cause or has the potential to cause a water quality problem or human health problem is SNC.
- Any schedule, operating or reporting violations of Board rules are SNC.
- Any violations of narrative requirements of the Act or Board rules, or any other violation of concern to the Director is SNC.

Total Coliform Rule (TCR)

- **MCL**
Monthly Monitoring: ≥ 4 acute/monthly MCL violations in any 12 consecutive months
- **Monitoring (M/R)**
Monthly monitoring: In any 12 consecutive months, meeting one of the following criteria: ≥ 4 major repeat M/R violations
- **Monitoring and MCL Combinations**
 ≥ 4 major repeat M/R violations and MCL violations
6 combined major repeat M/R, major routine M/R, and/or MCL violations
10 combined major/minor routine/repeat M/R and/or MCL violations

Chemical (Phase II/V – IOCs, VOCs, and SOCs) / Radionuclide

- **MCL (excluding Nitrate & Nitrite)**
Exceeds the short-term acceptable risk to health level (see attached “Chemical & Radiological Trigger Levels”)
- **Monitoring (M/R)**
System fails to monitor for ≥ 2 consecutive monitoring periods

Arsenic (Draft Implementation Guidance 11/01)

- **MCL**

Exceeds twice the MCL or 20 ppb

- **Monitoring (M/R)**
Failure to monitor in two consecutive compliance periods if monitoring more than yearly (e.g. monitoring quarterly)
Failure to monitor once if monitoring once a year or less (e.g. monitoring once every three years)

Nitrate & Nitrite

- **MCL**
Nitrate: $> 10\text{mg/L}$
Nitrite: $> 1\text{ mg/L}$
- **Monitoring (M/R)**
System fails to monitor for ≥ 2 consecutive monitoring periods

Surface Water Treatment Rule (SWTR)

- **Filtered Systems**

A system that has 4 or more treatment techniques violations in any 12 consecutive months

A system that has a combination of 6 violations including treatment technique violations and major M/R violations in any 12 consecutive months

Lead and Copper Rule (LCR)

- **Initial Tap Monitoring**

Any system that does not monitor during any one of the two consecutive six-month monitoring periods

- **Optimal Corrosion Control Installation**

A system which fails to install optimal corrosion control of time and has 90th percentile lead level of ≥ 30 ppb in its most recent monitoring period

- **Source Water Treatment Installation**

A system which fails to install source water treatment on time and has a 90th percentile lead level of ≥ 30 ppb in its most recent monitoring period

- **Public Education**

A system which fails to complete public education as required and has a 90th percentile lead level of ≥ 30 ppb in its most recent monitoring period

Additional Notes

- (1) A “major” M/R violation (except for SWTR) occurs when no samples are taken or no results are reported during a compliance period. For SWTR, a major M/R violation occurs when at least 90% of the required samples are not taken or results reported during a reporting period.
- (2) A “minor” M/R violation (except for SWTR) occurs when an insufficient number of samples are taken or incomplete results are reported during a compliance period. For SWTR, a minor violation occurs when less than 100% but more than 90% of the required samples are not taken or results reported during a reporting period.
- (3) SNC definition is modified, if needed, to cover new regulations as they are promulgated.

Phase II/IV and Radionuclide Contaminants

MCL and SNC Trigger Levels

Contaminant Code	Contaminant Name	MCL* Measure	SNC** Trigger Level
2380	cis-1,2-dichloroethylene	0.07	0
2968	o-Dichlorobenzene	0.6	0
2969	p-Dichlorobenzene	0.075	0.15

2979	Trans-1,2-Dichloroethylene	0.1	0
2051	Alachlor (Lasso)	0.002	0
1074	Antimony, Total	0.006	0
1005	Arsenic	0.05	0.1
1094	Asbestos	7000000	0
2050	Atrazine	0.003	0
1010	Barium	2	2
2990	Benzene	0.005	0.01
2306	Benzo (A) Pyrene	0.0002	0
1075	Beryllium, Total	0.004	0
2010	BHC-gamma (Lindane)	0.0002	0.004
1015	Cadmium	0.005	0.02
2046	Carbofuran	0.04	0
2982	Carbon Tetrachloride	0.005	0.03
2959	Chlordane	0.002	0
1020	Chromium	0.1	0.1
3100	Coliform (TCR)	0	
4010	Combined Radium (-226 & -228)	5	10
7000	Consumer Confidence Rule	0	
1022	Copper	0	
1024	Cyanide	0.2	0
2031	Dalapon	0.2	0
2035	Di(2-Ethylexyl) Adipate	0.4	0
2039	Di(2-Ethylexyl) Phthalate	0.006	0
2964	Dichloromethane (Methylene Chloride)	0.005	0
2041	Dinoseb	0.007	0
2032	Diquat	0.02	0
2033	Endothall	0.1	0
2005	Endrin	0.0002	0.0004
2992	Ethylbenzene	0.7	0
2946	Ethylene Dibromide (EDB)	0.00005	0
1025	Fluoride	4	5
2034	Glyphosate	0.7	0
4000	Gross Alpha, Excl. Radon & U	15	30
4100	Gross Beta Particle Activity	4	10
2065	Heptachlor	0.0004	0
2067	Heptachlor Epoxide	0.0002	0
2274	Hexachlorobenzene (HCB)	0.001	0
2042	Hexachlorocyclopentadiene	0.05	0
1030	Lead	0	
5000	Lead & Copper Rule	0	
1035	Mercury	0.002	0.004
2015	Methoxychlor	0.04	0.1
2989	Monochlorobenzene (Chlorobenzene)	0.1	0
1036	Nickel	0	

1040	Nitrate	10	10
1038	Nitrate-Nitrite	10	0
1041	Nitrite	1	0
2036	Oxamyl (Vydate)	0.2	0
2326	Pentachlorophenol	0.001	0
2040	Picloram	0.5	0
7500	Public Notice	0	
1045	Selenium	0.05	0.2
2037	Simazine	0.004	0
2996	Styrene	0.1	0
2987	Tetrachloroethylene	0.005	0
1085	Thallium, Total	0.002	0
2991	Toluene	1	0
2383	Total Polychlorinated Biphenyls (PCB)	0.0005	0
2020	Toxaphene	0.003	0.0125
2984	Trichloroethylene	0.005	0.3
0100	Turbidity	0	
2950	TTHM	0.1	0.1
2976	Vinyl Chloride	0.002	0.002
2955	Xylenes, Total	10	0
2977	1,1-Dichloroethylene	0.007	0.014
2981	1,1,1-Trichloroethane	0.2	1
2985	1,1,2-Trichloroethane	0.005	0
2931	1,2 Dibromo-3-Chloropropane (DBCP)	0.0002	0
2980	1,2-Dichloroethane	0.005	0.04
2983	1,2-Dichloropropane	0.005	0
2378	1,2,4-Trichlorobenzene	0.07	0.2
2063	2,3,7,8-TCDD (Dioxin)	0.00000003	0
2105	2,4-D	0.07	0.2
2110	2,4,5-TP (Silvex)	0.05	0.07

* Maximum Contaminant Level is the regulatory limit.

** SNC triggers are sometimes a multiplication of the MCL (i.e. 2X, 5X, etc.). SNC triggers are not always available "0" or not always applicable "blank".

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***Water Pollution Control Program
Significant Non-compliance (SNC) Criteria***

1. Effluent Violations of Monthly Average Limits

a. TRC Violations

A 40% exceedance of specific pollutant limits listed in Exhibit A or a 20% exceedance of a specific pollutant limit from Exhibit B at a given discharge point for any two or more months during the two consecutive quarter review period is SNC.

b. Chronic Violations

Violation of any monthly effluent limit at a given pipe by any amount for any four or more months during the two consecutive quarter review period is SNC.

2. Effluent Violations of Non-Monthly Average Limits*

TRC and chronic SNC criteria are the same as for monthly average violations as described in section 1. a. and b. above. However, the following caveat also applies:

When a parameter has both a monthly average and a non-monthly average limit, a facility would only be considered in SNC for the non-monthly limits if the monthly average is also violated to some degree (but less than SNC).

*NOTE: Non-monthly average SNC applies to all maximum and all average (other than monthly average) statistical base codes.

3. Other Effluent Violations

Any effluent violation that causes or has the potential to cause a water quality or human health problem is SNC.

4. Non – Effluent Violations

Any unauthorized bypass, unpermitted discharge, or pass through of pollutants, which causes or has the potential to cause a water quality problem (e.g., fish kills, oil sheens) or health problems (e.g., beach closings, fishing bans, or other restrictions of beneficial uses) is SNC. In the case of POTWs implementing Approved Pretreatment Programs, failure to implement or enforce those programs is SNC.

5. With respect to CAFOs, examples of significant noncompliance include the following:

- any significant unauthorized discharge
- multiple discharges without an NPDES permit

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- failure to apply for and obtain an NPDES permit when one is required
- multiple deficiencies in complying with the permit and the NMP, such as failure to maintain adequate storage capacity and containment
- failure to meet the major milestones required in an administrative or judicial order or in a permit ~~by 90 days or more~~
- failure to submit an annual report or other report required by an NPDES permit

*NOTE: EPA's 2007 Interim Wet Weather SNC Policy supplements the existing 1986 NPDES SNC Policy and will provide EPA and States with a tool to better manage the current NPDES program by providing guidance on prioritizing and tracking violations in EPA's Clean Water Act wet weather national enforcement priority areas. With respect to CAFOs, the violations mentioned above are recorded in ICIS using Single Event Violations (SEVs) codes. Please see SEV Table below for a complete list of SEV codes and descriptions. For an entire list of SEVs please refer to Interim WW SNC Policy Guidance.

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6. Permit Reporting Violations

Discharge Monitoring Reports, POTW Pretreatment Performance Reports, and the Compliance Schedule Final Report of Progress (i.e., whether final compliance has been attained) that are not submitted at all or are submitted 30 or more days late are SNC.

7. Enforcement Orders

a. Judicial Order

Any violation of a Judicial Order is SNC.

b. Administrative Order (AO)

Any violation of an effluent limit (or other water quality/health impact) established in an AO is SNC. However, when an AO limit is as stringent as an applicable permit limit, the facility is SNC only if the permit effluent SNC criteria, set out in number 1-3 above, are met.

Any unauthorized bypass, unpermitted discharge or pass-through of pollutants which cause or has the potential to cause a water quality problem or human health problem is SNC.

Any schedule or reporting violations listed above in sections 5, 6 and 7 respectively are SNC.

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Any violations of narrative requirements or any other violation of concern to the Director is SNC.

SNC Conventional Pollutants
(40% exceedance of limit)

Group I Pollutants – TRC=1.4

Oxygen Demand

Biochemical Oxygen Demand
Chemical Oxygen Demand
Total Oxygen Demands
Total Organic Carbon
Other

Solids

Total Suspended Solids
(Residues)
Total Dissolved Solids
(Residues)
Other

Nutrients

Inorganic Phosphorus Compounds
Inorganic Nitrogen Compounds
Other

Detergents and Oils

MBAS
NTA
Oil and Grease
Other detergents or algaecides

Minerals

Calcium
Chloride
Fluoride
Magnesium
Sodium
Potassium
Sulfur
Sulfate
Total Alkalinity
Total Hardness
Other Minerals

Metals

Aluminum
Cobalt
Iron
Vanadium

SNC Toxic Pollutants
(20% exceedance of limit)

Group II Pollutants – TRC = 1.2

Metals (all forms)
Other metals not specifically listed under Group I

Inorganic

Cyanide
Total Residual Chlorine

Organics

All organics are Group II except those specifically listed under Group I.3

Enforcement Response Tables

The response guides in **Tables 1 and 2** are for the use of Illinois EPA staff in determining the appropriate enforcement response to program violations. It is intended to serve two main purposes:

1. It recommends enforcement responses that are timely and appropriate in relation to the nature and severity of the violation and the overall degree of noncompliance.
2. It provides a guide for both new and experienced staff to ensure a uniform and consistent application of enforcement response to comparable levels and types of violations.

This guide should be used as an aid in selecting the most appropriate response to instances of noncompliance. When making determinations of the level of enforcement response, the Bureau of Water's technical and legal staff will consider the degree of deviation from the MCL or permit condition or legal requirement, the duration of the violation, previous enforcement actions taken against the facility, the potential danger to public health or the environment resulting from the violation, and the deterrent effect of the response. Equally important are considerations of fairness and equity, consistency statewide and nationally, and the integrity of the regulatory program.

In any particular case, consideration of the above factors may lead to a response that differs from those contained in the guide. The Illinois EPA in the exercise of its enforcement discretion may select any enforcement response available under and consistent with state and federal law. This guide does not create any legal rights or supersede any provisions of state or federal law.

In general, the Illinois EPA will respond to violations with the issuance of a VN under the provisions of Section 31 of the Act and/or the issuance of a less formal "non-compliance advisory letter". The type(s) of violations that require evaluation for the issuance of a formal VN in lieu of or in addition to a less formal response are identified on the following pages.

At the same time, EPA's EMS guidance establishes federal expectations which state that All SNC violations must be responded to in a timely and appropriate manner by NPDES authority. The response should reflect the nature and severity of the violation, and, unless there is supportable justification, the response must be a formal enforcement action, or a return to compliance by the permittee generally within one quarter from the date that the SNC violation is first reported on the Quarterly Noncompliance Report (QNCR). As NPDES authority, IEPA is expected to take a formal enforcement action before the violation appears on the second QNCR, generally within 60 days of the first QNCR. If IEPA does not act before the second QNCR, US EPA could take a formal enforcement action, independently. In the rare circumstance When formal enforcement action is not taken, when formal enforcement action is not taken, the NPDES authority is expected to have a written record that clearly justifies why the alternative action (informal enforcement action or permit modification) was more appropriate. This record might take the form of a "Violation Summary".

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Table 1

Drinking Water Compliance Enforcement Response Guidance

Monitoring Violations

*Parameter	Trigger/Circumstance	EMS Response
Bacteriological (coliform)	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor 3 times during a 12-month period	VN
Chemical/Radiological (including nitrates/nitrites)	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 consecutive monitoring periods	VN
Bromate Applicable to all WS using ozone	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 monitoring periods within a 6-month period	VN
Chlorine and/or chloramines Applicable to WS using chlorine or chloramines	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 monitoring periods within a 6-month period	VN
Chlorine Dioxide Applicable to all WS using chlorine dioxide	Failure to collect 3 distribution samples the day following an exceedance <u>OR</u> failure to monitor at the entrance to the distribution system the day following an exceedance of the MRDL	VN
Chlorite Applicable to all WS using chlorine dioxide	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 monitoring periods within a 6-month period	VN
Disinfectants/Disinfection By-Products (DDBPs) Applicable to all WS directly adding a disinfectant	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 consecutive monitoring periods	VN
TTHM (State Only Requirement) Applicable to all (SWP and GW/GWP >10,000) that do not directly disinfect)	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 consecutive monitoring periods	VN
Total Organic Carbon (TOC) Applicable to all SW that use conventional treatment	Failure to monitor for one monitoring period	Public Notice Advisory
	Failure to monitor for 2 monitoring periods within a 6-month period	VN
Turbidity Applicable to all SW	Failure to record turbidity readings every 4 hours at prescribed locations on protocol (one month violation)	Public Notice Advisory

	Failure to record turbidity readings every 4 hours at prescribed locations on protocol (two monthly violations within a 6-month period)	VN
Lead/Copper Excludes wholesale WSS	Failure to monitor for one monitoring period (routine, reduced, and maintenance)	Public Notice Advisory
	Failure to monitor for one monitoring period (initial)	VN
	Failure to monitor for 2 consecutive monitoring periods (routine, reduced, and maintenance)	VN
Residual Disinfectant Concentration (RDC) Applicable to all SW	Immediately following failure to provide RDC distribution monitoring <u>OR</u> entry point monitoring at prescribed frequency	VN

Reporting Violations

*Parameter	Trigger/Circumstance	EMS Response
Lead Public Education Excludes wholesale WSS	Failure to prepare and submit a lead public education program by due date	Public Notice Advisory
	Failure to prepare and submit a lead public education program by due date and most recent 90 th percentile is >30 ug/L.	VN
	Failure to prepare and submit a lead public education program by due date AND failed to return to compliance within 6 months following PNA	VN
Public Notice	Failure to issue public notice for any one violation	Public Notice Advisory
	Failure to issue public notice for any one violation AND failed to issue PN within 30 days of PNA	VN
Consumer Confidence Report (CCR)	Failure to issue a satisfactory CCR by July 1 st of each year (minor problems)	Written warning
	Failure to issue CCR by July 1 st of each year OR failure to issue a satisfactory CCR by July 1 st of each year (major problems)	NCA
	Failure to issue CCR by July 1 st of each year and failed to adequately respond to the NCA within 30 days	VN

Treatment Technique Violations

*Parameter	Trigger/Circumstance	EMS Response
Lead/Copper OCCT/SWT Recommendations Excludes wholesale WSS	Failure to submit Optimal Corrosion Control and/or Source Water Treatment Recommendation by due date	Public Notice Advisory
	Failure to submit within 6 months following Public Notice Advisory	VN
Lead/Copper failure to install OCCT/SWT Excludes wholesale WSS	Failure to install Optimal Corrosion Control and/or Source Water Treatment within 24 months following IEPA approval	VN
Lead/Copper WQP Ranges Excludes wholesale WSS	Failure to meet the approved water quality parameter ranges for 10 days or more within a 6-month period	Public Notice Advisory

	One violation and failure to return to compliance the next 6-month reporting period	VN
Total Organic Carbon All SW with Conventional Treatment	Failure to meet TOC removal requirements during any monitoring period (month)	Public Notice Advisory
	Failure to meet TOC removal requirements during any two months within a 6-month period	VN
Lead Service Line Replacement (LSLR) Excludes wholesale WSs	Failure to demonstrate 7% removal of LSL during a 12-month period	VN
Residual Disinfectant Concentration Applicable to all SW s	Failure to maintain 0.2 mg/L RDC at the entry point into the system	VN
Residual Disinfectant Concentration Applicable to all SWs	Failure to provide a detectable disinfection concentration in the distribution system in 95% of the samples during any monitoring period (month)	VN
Residual Disinfectant Concentration Applicable to GWs using chlorine or chloramines	Failure to maintain residual of free or total chlorine at levels to provide adequate health protection within a given month	VN
DBP Precursor Removal (total organic carbon-TOC) Applicable to all SW that use conventional treatment	Failure to meet DBP precursor removal requirements during any monitoring period	Public Notice Advisory
	Failure to meet DBP precursor removal requirements for 2 consecutive quarters	VN
Turbidity Applicable to all SWs	Turbidity of filtered water exceeds 1 NTU at any time	VN
Turbidity Applicable to all SWs	Failure to comply with 0.3 NTU 95% of the time on a monthly basis	VN

Maximum Contaminant Level Violations

*Parameter	Trigger/Circumstance	EMS Response
Bacteriological (coliform)	MCL violation within a given month	Public Notice Advisory
	2 MCL violations within a 12-month period	VN
Bromate Applicable to all WS using ozone for disinfection	One MCL violation (running annual average)	VN
Chemical/Radiological	One MCL violation (running annual average)	VN
Nitrate, Nitrite, or Total Nitrate & Nitrite	MCL violation (single sample OR single sample plus 24-hour confirmation sample)	VN
Chlorite Applicable to all WS using chlorine dioxide for disinfection	MCL violation is based upon the average of a 3-sample set, taken the day after a daily sample from the entrance to the distribution system is greater than the MCL	VN
Disinfectants\Disinfection By-products Applicable to all WS directly adding a disinfectant	One MCL violation (running annual average)	VN
TTHM (State Only Requirement) Applicable to all (SWP and GW/GWP >10,000) that do not directly disinfect)	One MCL violation (running annual average)	VN

Maximum Residual Disinfectant Level Violations

*Parameter	Trigger/Circumstance	EMS Response
Chloramines Applicable to WS using chloramines	One MRDL violation (running annual average of the 4 most recent quarters, computed quarterly, using the monthly averages)	VN
Chlorine Applicable to WS using chlorine	One MRDL violation (running annual average of the 4 most recent quarters, computed quarterly, using the monthly averages)	VN
Chlorine Dioxide (Acute) Applicable to WS using chlorine dioxide	One MRDL violation (one or more of a 3-sample set exceeds the MRDL, when taken the day after a daily sample from the entrance to the distribution system is greater than the MRDL)	VN
Chlorine Dioxide (Acute) Applicable to WS using chlorine dioxide	One MRDL violation (two consecutive daily samples from the entrance to the distribution system, exceed the MRDL, and all additional distribution samples taken are below the MRDL)	VN

Permit Violations

*Parameter	Trigger/Circumstance	EMS Response
Construction Permit	Failure to obtain construction permit prior to starting construction	VN
Construction Permit Condition Violation	Failure to meet condition of a construction permit	NCA
	Failure to meet condition of a construction permit and immediate short-term health threat, and/or persistent recalcitrance by violator	VN
Operating Permit	Failure to obtain operating permit for all changes or additions for which a construction permit is required	VN
Multiple Operating Permit Violations w/o Coliform	Multiple Operating Permit Violations w/o Coliform	NCA
	Immediate short-term health threat, and/or persistent recalcitrance by violator	VN

FOS and Other Violations

*Parameter	Trigger/Circumstance	EMS Response
Data Falsification	Upon discovery of data falsification and EDG decision	VN, Civil Referral, Criminal Referral, Certificate Sanctions
Failure to chlorinate	Failure to provide chlorination	NCA
	Immediate short-term health threat, and/or persistent recalcitrance by violator	VN, Civil Referral
Failure to Respond to Multiple Inspection Notices	Failure to respond to multiple inspection notices	NCA
	Immediate short-term health threat, and/or persistent recalcitrance by violator	VN, Civil Referral
Inadequate Response to Inspection Notices	Failure to provide a response that adequately addresses the violations	VN
Fluoride Overfeed	Immediately upon discovery of overfeed	NCA
	Immediate short-term health threat, and/or persistent recalcitrance by violator	VN, Civil Referral
Lack of a Certified Operator (CO)	Failure to have a Certified Operator	NCA
	Immediately after no response to the NCA	VN
Operational/Constructional Defects	Immediately upon discovery of operational/constructional defects	NCA
	Immediate short-term health threat, and/or persistent recalcitrance by violator	VN, Civil Referral
Persistent Low Pressure	Failure to provide adequate pressure in the system	NCA
	Immediate short-term health threat, and/or persistent recalcitrance by violator	VN, Civil Referral
Persistent Non-Compliance (Numerous Violations)	Immediately upon discovery of numerous violations	VN
Other Subtitle F Violations	Immediately upon discovery of violations	NCA

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Table 2

Wastewater Compliance Enforcement Response Guidance

Permit Violations

Noncompliance	Circumstances	Range of Response
Discharge without NPDES permit	Unintentional; first violation without documented environmental impact	Verbal Warning, NCA, VN, <u>Region 5 referral (AO or APO)</u>
Discharge without NPDES permit	Intentional; one or more times with or without documented environmental impact	Criminal referral, VN, civil referral, <u>Region 5 referral (APO or Judicial)</u>
Failure to reapply for NPDES permit	Any instance	VN, <u>Region 5 referral (AO, APO or Judicial)</u>

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▲ Failure to pay permit fee	Continued after due date	NCA, VN
▲ Minor construction or operation without a state permit (e.g., modification of existing permitted facility)	One time without documented environmental impact	None, verbal warning, NCA
▲ Substantial construction or operation without a state permit	Any instance	VN
▲ Minor construction or operation in violation of state permit conditions	One time without documented environmental impact	None, Verbal Warning, NCA
▲ Substantial construction or operation in violation of state permit conditions	Any instance	VN
▲ Failure to have a properly certified wastewater operator	Isolated or infrequent	Verbal Warning, NCA
▲ Failure to have a properly certified wastewater operator	Frequent or continued with prior NCA	VN

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NPDES Sampling, Monitoring and Reporting – Major Facilities

Noncompliance	Circumstances	Range of Response
▲ Failure to sample, monitor or report (non-SNC)	Isolated or infrequent	Verbal Warning, NCA
▲ Failure to sample, monitor or report (non-SNC)	Frequent or continued with prior NCA	VN
▲ Failure to sample monitor, or report (SNC)	Any instance	VN, Region 5 referral (AO or APO)
▲ Submission of incomplete or deficient report (SNC)	Any instance	VN, Region 5 referral (AO or APO)
▲ Submission of false or misleading documents	Any instance	Certified operator sanctions, VN, civil referral, criminal referral, Region 5 referral (Judicial or Criminal)

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NPDES Sampling, Monitoring and Reporting – Minor Facilities

Noncompliance	Circumstances	Range of Response
Failure to sample, monitor or report	Isolated or infrequent	None, Verbal Warning, NCA
Failure to sample, monitor or report	Frequent or continued with prior NCA	VN, <u>Region 5 referral (AO or APO)</u>
Submission of incomplete or deficient report	Isolated or infrequent	None, Verbal Warning, NCA
Submission of incomplete or deficient report	Frequent or continued with prior NCA	VN
Submission of false or misleading documents	Any instance	Certified operator sanctions, VN, civil referral, criminal referral, <u>Region 5 referral (Judicial or Criminal)</u>

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Permit Compliance Schedules – Major Facilities

Noncompliance	Circumstances	Range of Response
Missed date (non-SNC)	May result in other missed interim dates, violation for good or valid cause	Verbal Warning, NCA, <u>Region 5 referral (AO)</u>
Missed date (non-SNC)	Will result in other missed interim dates, no good or valid cause	NCA, VN, <u>Region 5 referral (AO, APO, or Judicial)</u>
Missed date (SNC)	Any instance	VN, <u>Region 5 referral (AO, APO, or Judicial)</u>

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Permit Compliance Schedules – Minor Facilities

Noncompliance	Circumstances	Range of Response
Missed date	May result in other missed interim dates, violation for good or valid cause	None, Verbal Warning, NCA
Missed date	Will result in other missed interim dates, no good or valid cause	NCA, VN, <u>Region 5 referral (AO, APO, or Judicial</u>
Missed date	Will result in missed final date, no good or valid cause	VN, <u>Region 5 referral (AO, APO, or Judicial)</u>

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Compliance Commitment Agreements

Noncompliance	Circumstances	Range of Response
Missed date	Achieved within 40 days, with valid cause	None, Verbal Warning
Missed date	Continued after 40 days, with valid cause	Send to CG
Missed date	Continued after 40 days, with no valid cause	Send to EDG

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Judicial Order Compliance

Noncompliance	Circumstances	Range of Response
Missed deadline	Contained in Judicial Order and good or valid cause	Contact permittee and require documentation of cause. Force majeure determination or modification of order
	Contained in Judicial Order and no good or valid cause	Assess penalty

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Exceeding Limits contained in a Judicial Order	Isolated or infrequent violation	Assess penalty, require documentation of cause
	Frequent or continue violations within the control of the permittee or known environmental damage	Judicial action, assess penalty

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NPDES Permit Effluent Limits

Noncompliance	Circumstances	Range of Response
Effluent limit violation(s) (non-SNC)	Undocumented surface water quality or groundwater quality or human health problem, or has a low potential to cause a water quality or human health problem	None, Verbal Warning, NCA, Region 5 referral (AO or APO)
Effluent limit violation(s) (non-SNC)	Documented surface water quality or groundwater water quality or human health problem, or has a high potential to cause a water quality or human health problem	VN, Region 5 referral (AO, APO, or Judicial)
Effluent limit violation(s) at a major facility (SNC)	Any instance	VN, Region 5 referral (AO, APO, or Judicial)
Effluent limit violation(s) at a minor facility (SNC)	Undocumented surface water quality or groundwater quality or human health problem, or has a low potential to cause a water quality or human health problem	None, Verbal Warning, NCA
Effluent limit violation(s) at a minor facility (SNC)	Documented surface water quality or groundwater water quality or human health problem, or has a high potential to cause a water quality or human health problem	VN, Region 5 referral (AO, APO, or Judicial)

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Fecal Coliform violations at CSOs or excess flow outfalls	Violations with undocumented surface water quality or groundwater quality or human health problem, or has a low potential to cause a water quality or human health problem; with valid cause (<i>e.g.</i> , extraordinary rainfall event)	None, Verbal Warning, NCA
Fecal Coliform violations at CSOs or excess flow outfalls	Violations with undocumented surface water quality or groundwater quality or human health problem, or has a low potential to cause a water quality or human health problem; with no valid cause	VN, <u>Region 5 referral (AO, APO, or Judicial)</u>
Fecal Coliform violations at CSOs or excess flow outfalls	Violations with a high potential to cause human health problems	VN, <u>Region 5 referral (AO, APO, or Judicial)</u>
Fecal coliform violations at dry weather outfalls	Two violations in 6 months that are greater than or equal to 2000 or four violations in a 6-month period	VN, <u>Region 5 referral (AO, APO, or Judicial)</u>

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Compliance Inspection

Noncompliance	Circumstances	Range of Response
Minor violation of sampling or analytical procedures	Any instance	None, Verbal Warning, NCA
Major violation of sampling or analytical procedures	No evidence of intent Evidence of negligence or intent	NCA, VN VN, certification sanctions, criminal referral, civil referral, <u>Region 5 referral (AO, APO, or Judicial)</u>

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Violation of permit conditions other than (numerical) effluent schedule or reporting violations (e.g., best management practices (BMP), operation and maintenance (O&M), unauthorized discharges/bypasses, record retention/availability, etc.)	No evidence of negligence or intent Evidence of negligence or intent	None, Verbal Warning, NCA, VN VN, criminal referral, civil referral, certification revocation, <u>Region 5 referral (Judicial)</u>
Spill, release or other activity resulting in substantial danger to the environment or to public health or welfare	Immediate measures required to correct	VN, Section 43 referral

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NPDES Data Quality Assurance

Noncompliance	Circumstances	Range of Response
Non-submittal of discharge monitoring report quality assurance data	Isolated or infrequent Continued violation	Verbal Warning, NCA VN, <u>Region 5 referral (AO, APO, or Judicial)</u>

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Livestock Waste Management Violations

Noncompliance	Circumstances	Range of Response
All CAFOs which had a discharge or are designed, constructed, maintained or operated to have a discharge	No NPDES Permit	VN require to apply for and obtain an NPDES permit, <u>Region 5 referral (AO, APO, or Judicial)</u> , <u>Section 43 referral</u>
Livestock waste discharge	Open feedlot runoff, undocumented environmental impact	NCA, VN, <u>Region 5 referral (AO, APO, or Judicial)</u>
Livestock waste discharge	Any significant unauthorized discharge with documented environmental impact	VN, civil referral, Section 43 referral, <u>Region 5 referral (AO, APO, or Judicial)</u>

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▲ Livestock waste discharge	Evidence of negligence or intent	VN, civil referral, criminal referral, <u>Region 5 referral (AO, APO, or Judicial)</u>
▲ Multiple livestock discharges	No NPDES permit	VN, civil referral, criminal referral, <u>Region 5 referral (AO, APO, or Judicial)</u>
▲ Failure to apply for an NPDES permit	When one is required.	VN, civil referral, <u>Region 5 referral (AO, APO, or Judicial)</u>
▲ Violations of permit requirements	Multiple violations.	VN, civil referral, <u>Region 5 referral (AO, APO, or Judicial)</u>
▲ Deficiencies in complying with the permit and the NMP	Multiple deficiencies such as failure to maintain adequate storage capacity and containment	VN, civil referral, <u>Region 5 referral (AO, APO, or Judicial)</u>
▲ Livestock waste land application violations	Over application, odors, setback violations, etc.	“Land Application Advisory Letter,” NCA, <u>VN</u>
▲ Livestock/livestock waste odors	Citizen complaints verified by IEPA	NCA, VN
▲ No Nutrient Management Plan (NMP)	When one is required.	VN, civil referral
▲ Failure to meet the major milestones required in an administrative or judicial order or in a permit	Milestone is 90 days or more overdue	Assess penalty
▲ Failure to submit an annual report or other report	When one is required.	VN, civil referral

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Single Event Violation Table – Codes and Descriptions

CODE	DESCRIPTION	CODE	DESCRIPTION
Effluent Violations		CSO	
A0018	Approved Bypass	A0C18	Approved Bypass
A0013	Failed Toxicity Test	A0024	Dry weather overflow
A0023	Industrial Spill	B0030	Failure to Develop Adequate LTCP
A0017	Inspection sample above historic DMR range	B0031	Failure to Implement LTCP
A0022	Narrative Effluent Violation	B0029	Failure to Implement Nine Minimum Controls (NMCs)
A0012	Numeric effluent violation	BC291	Failure to implement required NMC #1(Proper operation and maintenance)
A0016	Reported Fish Kill	BC292	Failure to implement required NMC #2 (Maximum use of the collection system)
A0011	Unapproved Bypass	BC293	Failure to implement required NMC #3 (Review pretreatment requirements)
A0015	Unauthorized Discharge of Brine	BC294	Failure to implement required NMC #4 (Maximization of flow)
		BC295	Failure to implement required NMC #5 (Elimination of dry weather flow)
Management Practice Violations		BC296	Failure to implement required NMC #6 (Control of solids)
B0019	Best Management Practice Deficiencies	BC297	Failure to implement required NMC #7 (Pollution prevention programs)
B0024	Biosolids/Sewage Sludge Violation (Part 503)	BC298	Failure to implement required NMC #8 (Public notification)
B0026	Failure to Allow Entry	BC299	Failure to implement required NMC #9 (Monitoring)
B0012	Failure to Conduct Inspections	B0C41	Failure to Maintain Records or Meet Record Keeping Requirements
B0027	Failure to Develop Adequate SPCC Plan	C0C11	Failure to monitor
B0017	Failure to develop any or adequate SWPPP/SWMP	E0C16	Failure to submit required report (non-DMR)
B0011	Failure to Develop/Enforce Standards	E0C13	Improper/Incorrect reporting
B0028	Failure to Implement SPCC Plan	B0044	LTCP implementation schedule milestone missed
B0018	Failure to Implement SWPPP/SWMP	A0C22	Narrative effluent violation
B0041	Failure to Maintain Records	E0C14	Noncompliance with section 308 Information Request
B0040	Improper Chemical Handling	A0C12	Numeric effluent violation
B0023	Improper Land Application (non-503, non-CAFO)	A0C11	Related Unapproved Bypass
B0020	Improper Operation and Maintenance	A0021	Unauthorized CSO Discharge to Waters/Wet Weather
B0025	Inflow/Infiltration (I/I)	A0025	Unauthorized overflow to dry land or building backup
B0021	Laboratory Not Certified	B0045	Violation of a milestone in a permit
B0022	No Licensed/Certified Operator	BC042	Violation of a milestone in an order
B0042	Violation of a milestone in an order		
Monitoring Violations		SSO	
C0017	Analysis not Conducted	A0S18	Approved Bypass
C0011	Failure to Monitor for non-Toxicity Requirements	A0020	Discharge to Waters
C0021	Failure to Monitor for Toxicity Requirements	D0S11	Discharge without a valid permit (includes satellite systems)
C0015	Frequency of Sampling Violation	B0S41	Failure to Maintain Records or Meet Record Keeping Requirements
C0018	Improper Analysis or Lab Error	C0S11	Failure to monitor
C0014	Invalid/Unrepresentative Sample	E0018	Failure to report other violation
C0016	No Flow Measurement Device	E0019	Failure to report violation that may endanger public health 122.41(d)(7)
		D0S12	Failure to submit required permit application info (includes satellite systems)
Permitting Violations		B0S20	Improper Operation and Maintenance
D0014	Application Incomplete	A0S22	Narrative effluent violation
D0011	Discharge Without a Valid Permit	E0S14	Noncompliance with section 308 Information Request
D0012	Failure to Apply for a Permit	A0S12	Numeric effluent violation
D0015	Failure to Pay Fees	A0026	Overflow to Dry Land or Building Backup
D0016	Failure to Submit Timely Permit Renewal Application	A0S11	Related Unapproved Bypass
D0013	Unapproved Operation	BS42A	Violation of milestone in an administrative order
D0017	Violation Specified in Comment	BS42J	Violation of milestone in judicial decree
		B0046	Violation of sewer moratorium or restriction

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Reporting Violations		Storm Water Construction	
E0017	Failure to Notify	D0R11	Discharge without a permit
E0012	Failure to Submit DMRs	D0R18	Failure to apply for a notice of termination
E0016	Failure to submit required report (non-DMR, non-pretreatment)	B0R12	Failure to Conduct Inspections
E0013	Improper/ Incorrect Reporting	B0C17	Failure to develop any or adequate SWPPP/SWMP
E0011	Late Submittal of DMRs	B0C18	Failure to Implement SWPPP/SWMP
E0014	Noncompliance with Section 308 Information Request	B0R41	Failure to Maintain Records
Pretreatment		C0R11	
C0012	Baseline Monitoring Report Violation	BR19A	Failure to properly install/implement BMPs
B0P12	Failure to Conduct Inspections	BR19B	Failure to properly operate and maintain BMPs
B0P11	Failure to Develop/Enforce Standards	D0R12	Failure to submit required permit application information
B0013	Failure to Enforce Against I/U	E0R16	Failure to submit required report (non-DMR)
B0015	Failure to Establish Local Limits	A0R22	Narrative effluent violation
C0013	Failure to Establish Self-Monitoring Requirements	E0R14	Noncompliance with section 308 Information Request
B0014	Failure to Issue SIU Permits	A0R12	Numeric Effluent Violation
B0016	Failure to Meet Inspection and Sampling Plan for SIUs	B0R42	Violation of a milestone in an order
E0015	Failure to submit required report (non-DMR)	Storm Water MS4	
B0P40	Improper Chemical Handling	D0M11	Discharge without a permit
A0014	I/U Violation of Pretreatment Standards	D0M18	Failure to apply for a notice of termination
CAFO		B0M12	Failure to Conduct Inspections
B0A19	Best Management Practice Deficiencies	B0M17	Failure to develop any or adequate SWPPP/SWMP
B0038	Direct Animal Contact with Waters of US	B0M18	Failure to Implement SWPPP/SWMP
D0A11	Discharge without a permit	B0M41	Failure to Maintain Records or Meet Record Keeping
B0A12	Failure to Conduct Inspections	C0M11	Failure to Monitor
B0032	Failure to Develop any or adequate NMP	BM19A	Failure to properly install/implement BMPs
B0033	Failure to Implement NMP	BM19B	Failure to properly operate and maintain BMPs
B0A41	Failure to Maintain Records or Meet Record Keeping Requirements	D0M12	Failure to submit required permit application information
B0043	Failure to meet order final compliance date	E0M16	Failure to submit required report (non-DMR)
C0A11	Failure to Monitor	A0M22	Narrative effluent violation
D0A12	Failure to submit required permit application information	E0M14	Noncompliance with section 308 Information Request
C0019	Failure to Test Manure	A0M12	Numeric Effluent Violation
B0A40	Improper Chemical Handling	B0M42	Violation of a milestone in an order
B0A23	Improper Land Application	Storm Water Non-Construction	
B0039	Improper Manure Handling (not including land application)	D0N11	Discharge without a permit
B0037	Improper Mortality Management	D0N18	Failure to apply for a notice of termination
B0036	Improper O&M of Storage Facility	B0N12	Failure to Conduct Inspections
E0A13	Improper/Incorrect reporting	B0N17	Failure to develop any or adequate SWPPP/SWMP
B0034	Insufficient Buffers/Setbacks	B0N18	Failure to Implement SWPPP/SWMP
B0035	Insufficient Storage Capacity	B0N41	Failure to Maintain Records
A0A22	Narrative effluent violation	C0N11	Failure to Monitor
E0A16	No Annual Report Submitted	BN19A	Failure to properly install/implement BMPs
C0020	No Depth Marker	BN19B	Failure to properly operate and maintain BMPs
E0A14	Noncompliance with section 308 Information Request	D0N12	Failure to submit required permit application information
A0A12	Numeric effluent violation	E0N16	Failure to submit required report (non-DMR)
A0019	Production Area Runoff	A0N22	Narrative effluent violation
B0A42	Violation of a milestone in an order	E0N14	Noncompliance with section 308 Information Request
		A0N12	Numeric Effluent Violation
		B0N42	Violation of a milestone in an order

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The codes and code names listed herein may change over time. Please consult ICIS-NPDES system documentation for updated lists.

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